



UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

**Caption in Compliance with D.N.J. LBR
9004-2(c)**

HALPERIN BATTAGLIA RAICHT, LLP

555 Madison Avenue – 9th Floor
New York, New York 10022
(212) 765-9100
(212) 765-0964 Facsimile
Donna Lieberman, Esq.
Carrie E. Mitchell, Esq.

**COLE, SCHOTZ, MEISEL,
FORMAN & LEONARD, P.A.**

A Professional Corporation
Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, New Jersey 07602-0800
(201) 489-3000
(201) 489-1536 Facsimile
Ilana Volkov, Esq.

Co-Counsel for the Class 10 Liquidation Trust

In re:

SHAPES/ARCH HOLDINGS L.L.C., et al.,

Debtors.

Chapter 11

Case No. 08-14631
(Jointly Administered)

Judge: Hon. Gloria M. Burns

Hearing Date: April 26, 2010

**ORDER APPROVING AND ADOPTING GLOBAL
PROCEDURES WITH RESPECT TO AVOIDANCE ACTIONS**

The relief set forth on the following page, number two (2) through five (5) is hereby

ORDERED.

DATED: 4/27/2010


Honorable Gloria M. Burns
United States Bankruptcy Court Judge

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Debtor: SHAPES/ARCH HOLDINGS L.L.C., et al.
Case No. 08-14631(GMB) (JOINTLY ADMINISTERED)
Caption of Order: ORDER APPROVING AND ADOPTING GLOBAL
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This matter came before the Court on the motion of The Class 10 Liquidation Trust, also known as the Shapes Liquidation Trust (the “Trust”), established upon the effective date of the Chapter 11 plan of Shapes/Arch Holdings, for entry of an order approving and adopting certain global procedures in connection with the commencement, prosecution and settlement of actions, including settlement prior to the commencement of an adversary proceeding, under 11 U.S.C. §§ 547, 548, 549 and 550 (the “Motion”)¹; and the Court having determined that adequate notice of the Motion has been given pursuant to Fed. R. Bankr. P. 2002; and the Court having read and considered the Motion, and the Trust having received an informal objection to the Motion from Northeast Metal Traders (“NEMT”), and the Trust and NEMT having agreed to a modification of the proposed procedures that shall be applicable solely to NEMT, as set forth below; and no other objections or responses having been received; and the Court having read and considered the Motion, and arguments of any counsel appearing regarding the relief requested in the Motion at a hearing before the Court; and the Court having determined that the legal and factual bases set forth in the Motion and at the hearing establish just cause for the relief granted herein:

It is hereby ORDERED that:

1. The Motion be and is hereby GRANTED.

¹ Capitalized terms used herein and not otherwise shall have the meaning ascribed to them in the Motion.

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2. The following global procedures in connection with claims and actions under 11 U.S.C. §§ 547, 548, 549 and 550, be and hereby are approved; provided, however, that 2(c) and 2(e) shall not be applicable to the avoidance action against NEMT:
 - a. **Settlements without Notice.** The Trust is authorized, pursuant to Fed. R. Bankr. P. 9019(b) to settle individual Avoidance Actions and avoidance claims, including settlement before the commencement of adversary proceedings, without further notice, and without further approval of the Bankruptcy Court if: (i) the face amount of the funds sought to be recovered is \$25,000 or less; or (ii) the face amount of the funds sought to be recovered is \$75,000 or less and the settlement amount is at least fifty percent (50%) of the face amount of the Avoidance Action.
 - b. **Settlements with Notice.** With respect to settlement of the Avoidance Actions, including settlement of avoidance claims before the commencement of adversary proceedings, that are not within the above categories and that require Bankruptcy Court approval, the Trust is authorized to employ the following procedures:
 - i. **Payment.** If the Trust and Potential Defendant reach an agreement as to an amount that the Potential Defendant will pay, the Trust is authorized to accept immediate payment from the Potential Defendant and retain such payment (the “Settlement Monies”) in its trust account pending the Bankruptcy Court’s approval of the settlement.
 - ii. **Notice of Settlement.** The Trust shall file, on a monthly basis, an omnibus notice advising the Court of Avoidance Actions and claims that have been settled (the “Monthly Omnibus Notice”). The Monthly Omnibus Notice shall contain the relevant terms of each settlement entered into in the previous month and seek Court approval of such settlements. (Copies of the settlement agreements shall be attached as exhibits to the Monthly Omnibus Notice.) The Monthly Omnibus Notice shall be filed on or before the 15th day of the month, commencing May 15, 2010 and shall

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cover the period through the end of the prior month. The Monthly Omnibus Notice shall only be served upon counsel for the Debtors, the Trust and the applicable Avoidance Action defendants and their counsel (if any), and the Office of the United States Trustee. If no objections to the Monthly Omnibus Notice are received within 13 days of service, the Court may enter an order approving the settlements listed in the Monthly Omnibus Notice without the need for a hearing.

- iii. **Retention of Payment; Dismissal of Action.** Upon the Court's approval of the settlements identified in the Monthly Omnibus Notice, the Trust shall be permitted to retain the Settlement Monies and to file a notice of dismissal of those Avoidance Actions. If any of the settlements identified in the Monthly Omnibus Notice are not approved by the Court, the Trust must promptly return the Settlement Monies paid in connection with that settlement to that Potential Defendant.
- c. **Rule 26 Waivers.** The requirements under Fed. R. Civ. P. 26(a)(1) - (3) and the requirements under Fed. R. Civ. P. 26(d) and (e) are waived, unless the parties to the specific adversary proceeding otherwise stipulate in writing.
- d. **Discovery and Other Deadlines.** The following discovery deadlines apply to all Avoidance Actions filed on or before April 1, 2010:
 - i. **Completion of discovery:** November 1, 2010. All motions to compel discovery are to be made so that the Court can rule and discovery can be obtained prior to that date.
 - ii. **Dispositive motions:** December 15, 2010. Dispositive motions shall be filed by December 15, 2010 and returnable no later than January 31, 2011.
- e. **Mediation.** Any matter that has not been otherwise resolved by or before January 31, 2011 shall be referred to mediation.
- f. **Omnibus hearing dates.** Other than trial dates and matters brought before the Court on an emergency basis, all conferences

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and hearings relating to the Avoidance Actions shall be scheduled for periodic omnibus hearing dates to be set by the Court.

3. A copy of this Order shall be docketed in the main case, Case No. 08-14631-GMB Shapes/Arch Holdings L.L.C., and in each of the adversary proceedings listed on attached **Exhibit A**.

Exhibit A

<u>Adv. Pro. No.</u>	<u>Name</u>
10-01322-GMB	The Class 10 Liquidation Trust v. 7 Oil Co. Inc.
10-01370-GMB	The Class 10 Liquidation Trust v. Ace Pallet Corporation
10-01371-GMB	The Class 10 Liquidation Trust v. Allegheny Plywood Company
10-01323-GMB	The Class 10 Liquidation Trust v. Aqua a/k/a AquaPennsylvania, Inc.
10-01324-GMB	The Class 10 Liquidation Trust v. BKA Sales and Marketing, Inc.
10-01398-GMB	The Class 10 Liquidation Trust v. Carpey et al
10-01325-GMB	The Class 10 Liquidation Trust v. Celadon Logistics Services, Inc.
10-01326-GMB	The Class 10 Liquidation Trust v. Chromalox
10-01328-GMB	The Class 10 Liquidation Trust v. Clean Earth, Inc. a/k/a Clean Earth of North Jersey
10-01329-GMB	The Class 10 Liquidation Trust v. Compressed Air Equipment, Inc.
10-01337-GMB	The Class 10 Liquidation Trust v. Crops NA, Inc.
10-01338-GMB	The Class 10 Liquidation Trust v. Crown Credit Company
09-02963-GMB	The Class 10 Liquidation Trust v. DGI Supply
10-01372-GMB	The Class 10 Liquidation Trust v. Exco USA
10-01374-GMB	The Class 10 Liquidation Trust v. Fitzpatrick Container Company
10-01341-GMB	The Class 10 Liquidation Trust v. GDHWD & Eberle, Inc. a/k/a Grossman, DeBartolo, et al.
10-01342-GMB	The Class 10 Liquidation Trust v. Grays Trucking a/k/a Gray Trucking
10-01375-GMB	The Class 10 Liquidation Trust v. Greaney Consulting, LLC
10-01392-GMB	The Class 10 Liquidation Trust v. HD Supply a/k/a HDS IP Holding, LLC
10-01343-GMB	The Class 10 Liquidation Trust v. Houghton Metal Finishing Co.
09-02961-GMB	The Class 10 Liquidation Trust v. Household Metals, Inc.
10-01389-GMB	The Class 10 Liquidation Trust v. Ingersoll-Rand Company d/b/a Schlage Lock Company
09-02962-GMB	The Class 10 Liquidation Trust v. K&M Transport LLC
10-01344-GMB	The Class 10 Liquidation Trust v. Kingmaker Steel Co., Inc.
10-01345-GMB	The Class 10 Liquidation Trust v. Kronos Incorporated
10-01346-GMB	The Class 10 Liquidation Trust v. Lamatek, Inc.
09-02957-GMB	The Class 10 Liquidation Trust v. Magretech
10-01348-GMB	The Class 10 Liquidation Trust v. Mal-ber Manufacturing Co.
10-01025-GMB	The Class 10 Liquidation Trust v. Marine Fasteners, Inc.
10-01349-GMB	The Class 10 Liquidation Trust v. Matalco Inc.
10-01350-GMB	The Class 10 Liquidation Trust v. Mati Sales LLC
10-01351-GMB	The Class 10 Liquidation Trust v. MEB Logistics
10-01376-GMB	The Class 10 Liquidation Trust v. Melton Truck Lines, Inc.
10-01352-GMB	The Class 10 Liquidation Trust v. Metal Koting

10-01353-GMB	The Class 10 Liquidation Trust v. National Accreditation and Management Institute
10-01377-GMB	The Class 10 Liquidation Trust v. Northeast Metal Traders, Inc.
10-01390-GMB	The Class 10 Liquidation Trust v. Northern Plastic Lumber Inc.
10-01026-GMB	The Class 10 Liquidation Trust v. ODL, Inc.
10-01379-GMB	The Class 10 Liquidation Trust v. Polyone Corporation
10-01380-GMB	The Class 10 Liquidation Trust v. Premier Window, Inc.
10-01391-GMB	The Class 10 Liquidation Trust v. PSK Steel Corporation
10-01354-GMB	The Class 10 Liquidation Trust v. Quaker City Chemicals, Inc.
10-01355-GMB	The Class 10 Liquidation Trust v. Rapture Trailer, Inc.
10-01029-GMB	The Class 10 Liquidation Trust v. River Road Recycling, Inc.
10-01357-GMB	The Class 10 Liquidation Trust v. Roux Associates, Inc.
10-01381-GMB	The Class 10 Liquidation Trust v. Royalplast Door Systems Co.
10-01358-GMB	The Class 10 Liquidation Trust v. Sales Unlimited LLC
10-01360-GMB	The Class 10 Liquidation Trust v. Sepesi, Inc.
10-01030-GMB	The Class 10 Liquidation Trust v. Service Aluminum Corporation
10-01361-GMB	The Class 10 Liquidation Trust v. Shapes Unlimited, Inc.
10-01362-GMB	The Class 10 Liquidation Trust v. Slick Ideas Inc.
10-01363-GMB	The Class 10 Liquidation Trust v. South Jersey Processing Inc.
10-01031-GMB	The Class 10 Liquidation Trust v. Swimline Corporation
10-01027-GMB	The Class 10 Liquidation Trust v. The Oilgear Company
10-01033-GMB	The Class 10 Liquidation Trust v. Toco Products, Inc.
10-01394-GMB	The Shapes Liquidation Trust a/k/a Class 10 Liquid v. Uneeda Bolt & Screw Co., Inc.
10-01035-GMB	The Class 10 Liquidation Trust v. United Packaging Supply Company
10-01364-GMB	The Class 10 Liquidation Trust v. Van-Air Hydraulics Inc.
10-01382-GMB	The Class 10 Liquidation Trust v. Verizon
10-01365-GMB	The Class 10 Liquidation Trust v. Vision Industries Group, Inc.
10-01383-GMB	The Class 10 Liquidation Trust v. Wagstaff, Inc.